Who Should Perform Ijtihâd?
A Discussion on Independent Juristic Reasoning in Islamic Law

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INTRODUCTION

Praise be to Allah; we praise Him, seek His forgiveness, and turn to Him in repentance. We seek refuge with Him from the evils of our souls and the evils of our deeds. Whomever Allah guides, none can misguide, and whomever Allah leads astray, none can guide. I bear witness that there is no god but Allah alone without partner, and I bear witness that Muhammad is His servant and Messenger.

We live in a time when almost everyone is talking about Islam. Matters of Islamic Law are frequently being discussed by all and sundry. Riding this wave of Islamic interest are a number of people who have no clue about Islamic Law and no previous experience in religious matters. Students of knowledge have a duty to stand against this tide and repel the falsehood that it brings with it. They must expose the deviance and ineptness of so-called Islamic intellectuals who just yesterday were nationalists, socialists, or what have you until that gravy train dried up and they had to search for a new way of making a living. Those intellectuals expected the people to have very short memories or at least be too much in the dark to figure out what was going on. Happily, they were disappointed. The people quickly saw through them, turned their backs on them, and hurried back to the truth. This, in itself, is a sign of the goodness that the Muslim nation still possesses. It shows that the Muslims cannot be duped so easily. Praise be to Allah who showed us in our people what brought contentment to our eyes.

In this short treatise, I hope to touch briefly upon the topic of *ijtihâd* and to clarify who has the qualifications to discuss religious beliefs and teachings and form opinions on matters of Islamic Law. The discussion will be divided into four chapters:

Chapter One: Why We Must Address the Issue of *Ijtihâd*

Chapter Two: The Importance of Discussing Islamic Issues and Providing Legal Judgments in Accordance with Islamic Law

Chapter Three: What It Means to Speak on Allah's Behalf without Knowledge

Chapter Four: The Many Forms that Speaking on Allah's Behalf without Knowledge Can Take

CHAPTER ONE
Why We Must Address the Issue of Ijtihâd

Today there are many reasons why we must talk about this matter. For one thing, many people are investigating Islamic legal matters who are not qualified to do so. They are not only delving into secondary legal issues, but also into fundamental matters of faith. Though they have no expertise to think of, they are not shy to discuss and criticize every single matter related to Islam, no matter how difficult or sensitive that matter might be.

Compounding this problem is the fact that the general public no longer tries to distinguish between legitimate scholars and quacks. They do not know who they should listen to. They do not ask themselves: Should I listen to this person when it comes to my religion? Is this person worth my attention?

Everyone who decides to speak about Islamic Law finds a receptive ear. Their opinions are passed on to others and discussed.

Those people who listen to all and sundry when it comes to their religion do not behave in the same manner when it comes to their worldly concerns. They insist upon taking their problems to the proper specialists. If one of their family members is sick, you do not see them taking him to the green grocer for a diagnosis. If they need architectural blueprints for a new house, they do not contract a tailor for the job.

This is, no doubt, the sensible way to behave, and people generally conduct themselves this way when it comes to their worldly concerns. Then suddenly, when the issue at hand is their religion, they do an about face and listen to anybody willing to shoot off his mouth. It would not be an exaggeration to say that anybody who speaks about Islam these days will find a receptive ear somewhere or another.

What makes matters more urgent is the fact that Islam has enjoyed a resurgence of late, for which we must thank and praise Allah. Because of this, everyone living in the Muslim world is now courting Islam and the Muslims. The most ardent Arab nationalists, leftists, and even communists of old have begun to speak and write about Islam. Some are even making a career of it. This is going on all over – in Egypt, North Africa, the Gulf States, and elsewhere.

Many people today are pandering to the Islamic sentiments of the masses and are trying to capitalize on their desire for Islamic knowledge and their eagerness to know the Islamic rulings for the issues that affect their lives. Once we realize this, we can appreciate the great danger that Muslim society is facing if the people do not learn to answer the following questions for themselves:

From whom should I take my Islamic knowledge?

Who is qualified to discuss matters of Islamic Law?

CHAPTER TWO
The Importance of Discussing Islamic Issues and Providing Legal Judgments in Accordance with Islamic Law

When a person gives an Islamic legal ruling on an issue, he is in effect speaking on behalf of Allah. This should not come as a surprise to anyone. When a person gives an Islamic ruling, he is not being asked about his personal opinion, his attitudes, his likes, or dislikes. He is being asked about the ruling that has been given on a matter by Allah and His Messenger (peace be upon him).

The great jurist and legal theorist of the Mâlikî school of law, al-Qarrâfî, describes the jurist as "a translator for Allah", because it is as if he translates the sacred texts into practical application.

Ibn al-Qayyim came very close to hitting the nail on the head when he entitled his famous book on Islamic Jurisprudence: *Informing Those Who Act as Signatories on Behalf of the Lord of All the Worlds*.[1] He regards the *muftî*, the one who gives the rulings on matters of Islamic Law, as one who kind of signs on behalf of Allah in such matters, just as a minister signs on behalf of the king or government he represents. Therefore, the *muftî* is merely a person who informs others of what he believes to be the ruling of Allah and His Messenger (peace be upon him) in a given matter.

From this point of departure, Ibn al-Qayyim writes: "The position of signatory on behalf of the king is a weighty position of indisputably high honor. It is one of the most prestigious positions one can hold. So how esteemed must the same position be with respect to the Lord of the heavens and the Earth?"[2]

The position of *muftî* is a very prestigious one. It is an honor for the one who assumes it as well as a weighty responsibility. In many places in the *Qur'ân*, Allah carries this role out himself. He says, for instance: "They ask you for a legal ruling. Say: Allah gives you the ruling…" [*Sûrah al-Nisâ'*: 176] Here Allah gives the ruling and attributes this activity to Himself.

Because of the seriousness of this responsibility, the earliest Muslim scholars would avoid giving legal rulings as much as they could, passing on the burden to others whenever possible. There are many references to this kind of behavior to be found in the writings of the early scholars. One excellent example of this can be found in the *Sunan* of al-Dârimî wherein he devotes a chapter to the matter entitled: "Chapter on Those Who Dreaded Having to Give Legal Decisions". In this chapter, he relates a good number of instances where people avoided giving legal rulings. We will mention just two of these:

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[1] The Arabic title of this book is: *I`lâm al-Muwaqqi`în `an Rabb al-`Âlamîn*.
[2] Ibn al-Qayyim, *I`lâm al-Muwaqqi`în `an Rabb al-`Âlamîn* (1/10).

It is related that `Abd al-Rahmân b. Abî Laylâ (a well-known student of the Companions) said: "I have met in this mosque one hundred twenty of the Ansâr. Not one of them would relate a *hadîth* without preferring that his brother did so in his stead."[3] Consider that these were one hundred twenty of the most eminent Companions of the Prophet (peace be upon him), some of whom had been with the Prophet (peace be upon him) for a substantial amount of time and acquired a vast amount of knowledge. In spite of this, they did their best to avoid giving legal rulings or even relating *hadîth*, each one of them preferring to refer the matter to someone else.

Al-Dârimî relates that al-Sha`bî was asked: "What did you all used to do when people inquired with you about things?"

Al-Sha`bî replied: "You have asked the right person this question. If anyone was asked about a matter, he would refer the matter to his colleague, who in turn would do the same. This would go on until the question arrived back at the man who had been asked in the first place!"[4]

They only behaved in this manner because they fully appreciated the seriousness of the task at hand. By giving a ruling on a matter, they were speaking on behalf of Allah, and they knew that speaking on behalf of Allah without knowledge is a grave and most serious sin. Ibn al-Qayyîm emphasizes this point repeatedly in his aforementioned work.[5]

CHAPTER THREE
What It Means to Speak on Allah's Behalf without Knowledge

Allah says: "Say: The things that my Lord has indeed prohibited are: licentious deeds whether open or secret, sins, trespasses against rights, assigning partners to Allah for which He has given no authority, and saying things about Allah of which you have no knowledge." [*Sûrah al-A`râf*: 33] After mentioning these forbidden things that all the revealed scriptures throughout time had prohibited, Allah concludes by saying: "…and saying things about Allah of which you have no knowledge."

This prohibition of speaking about Allah without knowledge comprises many things, among which are the following:

It is prohibited to speak without knowledge about Allah's essence, His names, His attributes, and His actions. Sadly, this is done by many people. Without any guidance or evidence, they glibly speak about Allah's divinity, His Lordship, His names, and His attributes. They also have no reservations when speaking about the Unseen. They freely discuss the Hereafter, Heaven and Hell, and the Bridge that is suspended over the Fire without having a scrap of evidence to their name.

[3] *Sunan al-Dârimî* (130).
[4] *Sunan al-Dârimî* (136).
[5] Ibn al-Qayyim, *I`lâm al-Muwaqqi`în `an Rabb al-`Âlamîn* (1/38).

Human reason can provide no guidance or evidence for such matters, for when the mind departs from its area of expertise and plunges into the world of the Unseen, it starts to wander around in a bleak desert of delusions and half-baked hypotheses. Look how the philosophers led themselves and others astray with their strenuous but fruitless mental exertions. How much benefit might they have realized for themselves and others had they only pursued more productive lines of reasoning? But they preferred to waste their energies on futile pursuits that were of no avail to humanity, neither in their religion nor their worldly lives.

The proper role for reason in these matters is to understand the sacred texts, ascertain their meanings, accept them wholeheartedly, and act upon their guidance. It is the epitome of arrogance for a person to think that his rational faculties are the equal of divine revelation. They think that with their puny minds they can penetrate the world of the Unseen when their minds cannot even decipher all that goes on in the visible world around them.

It is prohibited to speak without knowledge about what Allah has decreed for the future. Some people speak about what is going to happen in the future as if they know what Allah intends. This is the traffic of soothsayers, astrologers, palm readers, and other charlatans who fool the heedless in various ways.

It is prohibited to speak without knowledge about matters of Islamic Law. There are those who speak about what is lawful and prohibited. They discuss what is obligatory and what is not. They do all this without having any authority to do so.

What, you may ask, would this authority be? It is the Book of Allah and the authentic *hadîth* of Allah's Messenger (peace be upon him). Even with this, not everyone is capable of understanding and expressing the meanings of these texts. It takes a qualified and knowledgeable scholar to do so, someone who has the requisite knowledge and skills to discuss matters of Islamic Law.

Allah forbids us from speaking on His behalf without knowledge. He says:

"Do not say – for any false thing that your tongues may put forth – 'This is lawful and this is forbidden' so as to ascribe false things to Allah. For those who ascribe false things to Allah will never prosper." [*Sûrah al-Nahl*: 116]

"Pursue not that which you have no knowledge, for surely the hearing, the sight, and the heart all shall be questioned about it." [*Sûrah al-Isrâ'*: 36]

About the polytheists He says: "When they commit an indecent act, they say: 'We found our fathers doing so.' and 'Allah commanded us thus.' Say: 'Allah does not command what is indecent. Do you say of Allah what you do not know?'" [*Sûrah al-A`râf*: 28] Such were people who, if they were accustomed to doing something and then were prohibited from doing so, would say: "But Allah commanded us to do it." Allah

condemns this behavior of theirs and condemns them for saying about Allah what they did not know.

Speaking on Allah's behalf without knowledge is as great a sin as there can be. It is the root cause of polytheism. Every Muslim, therefore, should be extra vigilant to avoid falling into this sin. In the remainder of this treatise, I will mention different ways that people today fall into the mistake of speaking on behalf of Allah and His Messenger (peace be upon him) without knowledge or guidance.

CHAPTER FOUR
The Many Forms that Speaking on Allah's Behalf without Knowledge Can Take

1. Involvement of unqualified people in the various branches of Islamic knowledge:

Many eloquent speakers and writers who have little or no proper religious knowledge are plunging blindly into Islamic issues that they are not qualified to discuss. It is not surprising that they rarely back up what they say with evidence from the *Qur'ân* and *Sunnah*.

Some of these people – actually most of them – justify what they are doing by the fact that Islam has no clergy or "priest class". Now, this is unequivocally true. Islam has no specific class of people who act as priests and have the exclusive right to interpret scripture. This is open to everyone – after they acquire the requisite knowledge and are able to discuss matters of religion with knowledge and with the proper evidences. It is, however, not open to everyone in the sense of being public domain for all and sundry to do in as they please.

Though Islam has no priests or monks, it does have scholars with whom others must consult when it comes to understanding the *Qur'ân* and *Sunnah*. It is so strange that people understand this concept when it comes to other matters of their life, but fail to realize it when it comes to their religion.

For instance, the shelves in our bookshops these days are crammed full with medical books. There are thousands of publishers around the world devoted to publishing medical books and journals. There are centers devoted to producing, publishing, and disseminating medical research. There is a vast amount of material in print, and this body of literature is being updated every day, providing up to date information for the specialists engaged in the medical profession.

Have the people, because of this, been able to dispense with doctors? Have they stopped opening hospitals, clinics, and medical research centers? Far from it. People are as acutely aware as ever of the need for these doctors and their services. Why is this? It is because all those printed pages are just not enough. A layman cannot benefit from them or even understand most of them. The most he can get out of reading such literature is some general knowledge to help him converse with his doctor in an intelligent manner. Effective self diagnosis and treatment is still very much beyond his reach.

So how can we presume that since the texts of the *Qur'ân*, the *Sunnah*, and numerous scholarly works are readily available in print, we can dispense with referring our religious questions to qualified scholars? How can we think that every Muslim has the right to give his opinion about any Islamic issue he feels like, simply because he has come across a text that he thinks addresses the issue of his concern?

We should recall that poor man who published in a leading periodical a lengthy article entitled: "Not Everything in *Sahîh al-Bukhârî* is Authentic". He clearly had not done his homework before writing that article. One day, he came across a *hadîth* from the Prophet's wife `Â'ishah in *Sahîh al-Bukhârî* that he misread in the following manner: "The Prophet (peace be upon him) ordered me to put on a waistcloth and had intercourse with me during my menstruation."[6] If he knew what he was reading, he would have known that the Arabic word "*yubâshirunî*" meant "touch" in the literal sense and did not mean sexual intercourse at all. So he went on to declare the *hadîth* weak and inauthentic. Why? Because, as he claimed, it went against the words of the *Qur'ân*! He then went on to quote the verse: "They ask you concerning the women's menstrual cycles. Say: they are a hurt and a pollution, so keep away from women in their menstrual cycle and do not approach them until they are clean." [*Sûrah al-Baqarah*: 222]

Those who make haste in these matters and neglect going back to the proper source works and references can easily fall into this kind of mistake or one even more pathetic.

What is most amazing is how readily some people are to offer their opinions about the Prophetic *hadîth*, deciding what is authentic and what is not, deciding what should be accepted and what should be rejected They just as easily delve into maters of Islamic Law, giving verdicts left and right, declaring this lawful, that forbidden, and something else obligatory. They do not even bother to refer to the available commentaries on the *hadîth* literature and the opinions of the scholars before making these declarations.

These same people have the gall to ridicule and mock others. They claim that the students of religious knowledge spend a day and night learning and are then prepared to speak. We have begun to hear many of these people criticize the young people who have studied Islam, saying that they have no insight and insinuating that they have only studied for a week or a month or a few days. Ironically, these critics have no hesitation in discussing the most serious and critical of Islamic issues without bothering to do even an hour of research to find out what the scholars have said. It would have been far better if they had actually spent a month or a week or a few days on the matter!

In two places in the *Qur'ân*, Allah says: "Ask the people of knowledge if you do not know." [*Sûrah al-Nahl*: 43 / *Sûrah al-Anbiyâ'*: 7] The people of knowledge are those who have specialized knowledge in their field. Therefore, Islamic Law requires that people learn about a given matter from those who have such specialized knowledge. If the issue in question is a medical one, then the advice of a medical doctor must be sought out. If it is linguistic, then a scholar of language must be referred to. Likewise, if the issue

[6] The *hadîth* should read: "The Prophet (peace be upon him) ordered me to put on a waistcloth and then caressed me during my menstruation." [*Sahîh al-Bukhârî* (301)]

at hand is an Islamic issue, then an Islamic scholar must be asked. This is the way to follow Allah's command: "Ask the people of knowledge…" You do not go to a physician with a question about Islamic Law, nor do you go to a jurist with a medical problem. Likewise, poets, writers, and journalists are not the people to go to when looking to address Islamic legal matters. Still, we must respect these people and give due credit to the role that their professions play in society, cultivating its moral awareness, and developing the character of its members. There are many people among them who are carrying out these tasks admirably, for which we must be thankful to Allah.

Allah's Messenger (peace be upon him) chastised a man for giving a religious ruling without knowledge. The story goes like this: One of the Companions was participating in a battle when he suffered a serious head injury. Then he fell into a state of major ritual impurity requiring that he perform a bath before he could pray. He asked his comrades what he should do. They told him that he must bathe. He did so and died as a result. The Prophet (peace be upon him) found out about this and said: "Curse them! They have killed him. Shouldn't they have asked if they did not know? The only cure for not knowing is to ask."[7]

Here the Prophet (peace be upon him) made it clear that someone who does not have sufficient knowledge must ask those who do. It is their duty to ask as well as their right.

There is also the story of al-`Asîf who committed fornication with a married woman. Al-`Asîf's father went to the people of knowledge and asked them about his son. Then he went to the Prophet (peace be upon him) and said: "I asked the people of knowledge and they told me that my son must be given one hundred lashes with a whip and exiled for a year and that the married woman must be stoned." The Prophet (peace be upon him) informed him that this was correct, showing his approval for the fact that the man took his problem to the people of knowledge and relied upon their legal decision, even while he, the Prophet (peace be upon him), was living among them.[8]

This shows that the correct thing for the general public to do in order to learn what is permissible and forbidden in their religion is to go to the people of knowledge. When we say that they should ask the people of knowledge, we do not mean that they should close their eyes and unquestioningly follow, especially when the questioners are intelligent, literate, and educated people. When a scholar gives a ruling on a matter, the questioner has a right to discuss it with him, ask him for his proof, and even present him with other opinions that he might have heard. What is important is to make sure that discussions about Islamic issues are kept within their proper framework. It should not be open to everyone to speak without observing any guidelines or conditions whatsoever and without there being some way to monitor what they say.

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[7] *Musnad Ahmad* (3078). *Sunan al-Dârimî* (756). *Sunan Abî Dâwûd* (337). *Sunan Ibn Mâjah* (527) as related by Ibn `Abbâs. It is supported by another *hadîth* related by Jâbir b. `Abd Allah – *Sunan Abî Dâwûd* (337). *Sûnan al-Dâraqyutnî* (1/190). *Sunan al-Bayhaqî* (1/227). Al-Albânî deems the hadîth to be authentic (sahîh).

[8] *Sahîh al-Bukhârî* (2669). *Sahîh Muslim* (1698).

It is a danger to have unqualified people speak on Islamic matters. People cannot dispense with the *muftî*, the person specialized in Islamic Law who has the expertise and experience to give rulings on Islamic legal matters.

2. Claiming the ability to perform *ijtihâd*:

Another way people speak on behalf of Allah without knowledge is to falsely claim to be qualified to engage in *ijtihâd* or independent juristic reasoning. Some people are not content with just speaking on Islamic issues. They must go further and claim that they are fully capable of engaging in independent juristic reasoning.

Now, we do not claim, as some have, that "the doors to *ijtihâd* are closed". No one should ever say that we belittle the value of the human mind. However, we also do not say what some contemporary writers have said: that the doors to *ijtihâd* are broken and anyone, whether qualified or not, can pass through them whenever and however he likes.

There are some people who are not qualified to engage in *ijtihâd* who claim that they are. When they delve into religious matters, they claim that they will be rewarded by Allah for their efforts. They say that they will be excused for their mistakes in judgment. These people are definitely among those who speak on Allah's behalf without knowledge.

Let us look at some of the conditions that the scholars have determined for a person to be a qualified *muftî*, conditions that apply even for those *muftîs* who are not qualified to engage in independent juristic reasoning.

1. Islam: An unbeliever or apostate cannot be a *muftî*. He has no right to speak on matters of Islamic Law until he accepts Islam, or, in the case of an apostate, announces his repentance. Thereafter, such a person can embark upon the required study to enter into such an arduous and serious occupation.

2. Legal Accountability: A person who cannot be held legally accountable for his own actions cannot be a *muftî* either.

3. Upright Character: A person of bad character cannot be a *muftî*. It makes no difference whether his deficiency in character is in his words, his deeds, or his beliefs.

These three conditions are a point of unanimous scholarly agreement. There are, however, other conditions about which there is some disagreement.

4. *Ijtihâd*: Some scholars are of the opinion that a person who is unable to engage in independent juristic reasoning cannot be a *muftî*. This is to ensure that he will not unwittingly give a ruling that goes against juristic consensus. The conditions for *ijtihâd* are well known, like knowledge of the Arabic language, knowledge of jurisprudence, and knowledge of the areas of juristic consensus. He must also be conversant in the different opinions of the scholars and their arguments, so he will be able to weigh the merits and demerits of their opinions.

5. Legal aptitude: Many scholars require a *muftî* to have the intelligence and insight to deal effectively with legal matters. A *muftî* has to be able to accurately assess the character of the people who come to them seeking legal counsel and see through their plots and deceptions. He has to know the appropriate means of arriving at the truth.

Ahmad b. Hanbal, after mentioning similar conditions for a qualified *muftî*, insists that, before he embarks upon issuing Islamic legal rulings, a *muftî* must also possess within himself the following five character traits:

1. Purity of intention: Unless a person has a good intention, neither he nor his speech will be enlightened.
2. Knowledge, discernment, and dignity: The moral virtues of the *muftî* should be of such as to command trust and respect. He should be an example for others to follow and someone people would be willing to emulate.
3. A grasp of the issues: He should have a solid grounding in all facets of Islamic Law and the ability to grasp all the pertinent details of the matters that he investigates.
4. Financial security: He must not be dependent on the people, otherwise they will devour him.
5. People skills: He must know how to relate with people, see through their deceptions, and recognize the games that they play, so he does not fall victim to their lies and schemes.[9]

The leading jurists of the past used to be extremely careful when giving rulings and they used to forbid those who had insufficient knowledge from doing so. Ibn al-Qayyim writes:

> Our mentor (Ibn Taymiyah) was severe in his condemnation of those people who hastily gave Islamic legal rulings without knowledge. Once, I heard him say: "Some people asked me if I had been appointed as an official to monitor the conduct of the *muftîs*. I replied that if there is someone appointed to monitor and regulate the work of the baker and the chef, then there definitely should be someone appointed to monitor the work of the *muftî*."[10]

It was the case back then, just like it is today, that for each profession one of its practitioners was appointed to monitor the conduct of the people engaged in it. So they asked Ibn Taymiyah if he had been appointed by the government to monitor the conduct of the *muftîs*. He responded to them that he decided on his own to fulfill this function and prevent people without the requisite knowledge from issuing Islamic legal rulings.

It is, therefore, quite astounding to hear some people today claiming that Ibn Taymiyah was of the opinion that everyone, even the layperson, is allowed to engage in *ijtihâd*. How can they even make such a ludicrous claim, when Ibn Taymiyah used to actively

[9] Refer to: Ibn al-Qayyim, *I`lâm al-Muwaqqi`în `an Rabb al-`Âlamîn* (4/199).
[10] Ibn al-Qayyim, *I`lâm al-Muwaqqi`în `an Rabb al-`Âlamîn* (4/217).

prevent unqualified people from giving religious rulings? He would expose those who tried to pass themselves off as scholars and publicly denounce them.

If you try to object to what these people are doing, they often say: My brother, do not be rigid in something that is flexible. Didn't Allah's Messenger (peace be upon him) say: "If someone gives a ruling that is correct, then he receives a double reward, and if he gives a ruling that is wrong then he receives a single reward."[11]? I will either get a reward or a double reward. So why are you getting so upset? And why do you fight with me about my speaking, writing, and giving rulings on important Islamic legal matters?

This is how they often phrase their arguments. The truth of the matter is that the *hadîth* they are using applies only to people who fulfill the following two conditions:

1. The person should have the ability to perform *ijtihâd* and possess the requisite knowledge and expertise.
2. The person must expend every effort in investigating the matter of concern. It is not enough that the issue may be well-known. The investigator must research the issue from all angles, carefully weighing the strengths and weaknesses of the different opinions that exist. Any supporting research that needs to be done must be carried out.

In this way, every effort is made to ensure that the truth is likely to be found. If both of these conditions are fulfilled, then the person will not be blameworthy. He will be rewarded for his efforts. If he gets it right, he will receive a double reward. If he makes a mistake, then a single reward will still be his.

As for a person who speaks without knowledge, he is a sinner, even if he just happens to get the answer right. This is because his answer, if it happens to be correct, is only correct by virtue of coincidence and has nothing to do with the dictates of Islamic Law. This is the meaning of the following *hadîth*: "Whoever speaks about the *Qur'ân* on the strength of his own opinion and gets it right, he is wrong."[12] If this *hadîth* proves authentic, then it supports what we are saying here.

Anyhow, there is an established *hadîth* wherein the Prophet (peace be upon him) said: "Whoever issues a baseless legal verdict, then its sin will be on the one who issues it."[13] Therefore, a person who issues an Islamic legal ruling without knowledge and without valid evidence will carry the full weight of the sin for those who follow him in his error.

Allah says: "Who does more wrong than one who invents a lie against Allah to lead astray people without knowledge? Allah does not guide a people who do wrong." [*Sûrah al-An`âm*: 144]

[11] *Sahîh al-Bukhârî* (7352). *Sahîh Muslim* (1716). Related from `Amr b. al-`Âs.
[12] *Sunan al-Tirmidhî* (2952). Al-Tirmidhî declared this narration as strange (*gharîb*). Scholars such as al-Bukhârî and Ibn Hibbân have criticized one of its narrators, Suhayl b. Abî Hazm.
[13] *Musnad Ahmad* (8067). *Sunan al-Dârimî* (159). *Sunan Ibn Mâjah* (53).

Those who speak on matters of religion without knowledge are the most oppressive of wrongdoers. They oppress themselves as well as others. They wrong all the Muslims and society at large. They bear the sin of what they do as well as the sins of those they lead astray. On the Day of Judgment, they will shoulder the burdens of all those people who followed them in error. Allah says: "That they may bear on the Day of Judgment their own burdens in full and also some of the burdens of those without knowledge whom they misled. Alas, how grievous is the burden they shall bear!" [*Sûrah al-Nahl*: 25]

Ibn al-Qayyim writes: "Whoever gives religious rulings to the people without being qualified for the task is a recalcitrant sinner. Whoever holds a political post and affirms this behavior is just as sinful."[14]

Ibn al-Jawzî writes: "It is the duty of those in authority to prevent them from behaving like this, as the Umayyads had prevented them. Such people are like guides who do not know the way or like a blind man pointing out the direction of prayer. They are like bogus physicians who ignorantly provide people with medical treatment. They are actually worse than all of those people. Since it is the responsibility of those in authority to prevent unqualified people from offering medical treatment to the people, then what should be the case be for those who issue religious rulings but do not know the *Qur'ân* and *Sunnah* and have no knowledge of the religion?"[15]

It is startling to see the double standards applied by those who preside over the affairs of the Muslims, who suppress the views of their peers and often restrict other scholars from speaking about the religion, while leaving the door open to every unqualified novice who wishes to try his hand at Islamic scholarship.

The jurists of the Hanafî school of law speak at length about a type of *muftî* they call "the impudent *muftî*". Abû Hanîfah writes: "This impudent *muftî* must be restrained." Why? "…because he plays games with Islamic legal rulings by issuing them without having the ability to do so. May Allah protect the Muslims from the evil of those who bring destruction upon religious injunctions, who dress the hearts of wolves in the clothes of sheep."

Naturally, it is possible for a student who is capable of investigating an issue to do so. If he has the ability to refer to the proper source works, compile and analyze all the evidence, weight the different opinions, and then arrive at worthwhile conclusions, he may engage in *ijtihâd* to an extent. A person may be capable of engaging in *ijtihâd* in some issues and not others, but still there are conditions that must be met.

3. Delving into a specific issue on the presumption that it is simple:

One way people fall into speaking on Allah's behalf without knowledge is to justify themselves by arguing that the matters they are speaking about are simple and easy. It is amazing how fast people arrive at that conclusion.

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[14] Ibn al-Qayyim, *I`lâm al-Muwaqqi`în `an Rabb al-`Âlamîn* (4/217).
[15] Ibn al-Qayyim, *I`lâm al-Muwaqqi`în `an Rabb al-`Âlamîn* (4/217).

Consider a group of people – maybe ordinary people or maybe so-called modern intellectuals. They sit around talking. None of them have any deep knowledge of Islamic Law that would enable them to arrive at any worthwhile conclusions, yet they start talking about these matters anyway. Their discussions do not stay confined to thinking out loud or group study. They go so far as to form very specific opinions and very pointed conclusions. If you try to talk to them about what they are doing, they say to you: "These issues are simple. They do not require any heavy deliberations."

It was a great gift of Allah when the great jurist Imam Mâlik said to a questioner the words: "I do not know." The man replied that the issue he asked about was a simple one. This made Mâlik very angry and he said: "There is nothing in matters of knowledge that can be taken lightly. Haven't you heard Allah's words: 'Soon shall we send down to you a weighty word.' [*Sûrah al-Muzammil*: 5]?"[16]

The rule to be followed is that issues of Islamic legal importance are never to be taken lightly or brushed off as easy. The person who speaks on these matters is discussing the laws of Allah, so it is as if he is translating the words of Allah and His Messenger (peace be upon him). It is just as if he is speaking on Allah's behalf. He is not pulling something out of his own pocket to present to the people, so he has no right to take a laid-back attitude about what he is doing.

4. Assuming that the existence of disagreement is an argument in and of itself:

This is one of the most perilous ways a person can fall into the error of speaking on Allah's behalf without knowledge. It is also one of the most common ways that it happens in our day and age. Many people, especially those who possess specialized knowledge in certain unrelated fields, assume that the existence of disagreement on an issue is enough justification for them to select for themselves whichever opinion they like. For example, if there are two established, scholarly opinions on a certain matter – one that a given thing is forbidden and the other that it is permitted – they automatically assume that it is permitted. Why? Because there are two opinions on the issue, and they assume that the mere existence of disagreement is a valid proof in and of itself.

The Muslims have been aversely affected by a good number of these people who have been promoting this idea to the general public. They give the people the impression that they can choose whatever opinions suit their personal whims and fancies, without any regard for the evidence behind those opinions. Disagreement on a matter, for them, usually equates to permissibility. This has been observed by al-Khattâbî and al-Shâtibî who have written against those who take disagreement on a matter as an indication of its permissibility.

One of these people will turn to you and say: "O my brother! Do not make things difficult for people. This issue is one in which the scholars have disagreed with one another. So why do you condemn those who elect to follow another opinion on the manner? Why do you insist on arguing with them?"

[16] Ibn al-Qayyim, *I`lâm al-Muwaqqi`în `an Rabb al-`Âlamîn* (4/218).

Such a person is clearly not basing his views on evidence from the *Qur'ân* and *Sunnah* or on any research into which of the scholarly opinions is correct. This person is not following a scholar that he relies upon in these matters. If he had been doing any of this, his behavior might have been acceptable.

One of them might say: "Look, there is disagreement between scholars on this matter, so I will not accept what you say." If he then says that he is prepared to research the issue thoroughly until he arrives at the conclusion that convinces him, then we have no objection to this – provided that he does not try to arrive at an opinion contrary to those of all the scholars and that he is sincerely looking for the truth and not just following his whims and desires.

If, on the other hand, he says that he follows in these matters a certain scholar whom he trusts, even before knowing that scholars view on a particular issue, then we also have no objection. As long as he is not versed in Islamic law, then he is doing nothing wrong by following someone whom he trusts. He must, however, follow that scholar's opinions whether they are easy or difficult and whether they conform to his fancies or not. On the other hand, if he claims that he can just pick and choose which scholarly opinions he feels like following, then what role is left for Islamic law?

The decisive factor must be Islamic law, not personal inclination. Allah commands us when we fall into dispute to take matters back to the *Qur'ân* and *Sunnah*. Allah says: "If you differ in anything among yourselves, refer it to Allah and His Messenger." [*Sûrah al-Nisâ'*: 59] The differing mentioned in the verse concerns matters of religion. We are commanded in this verse to refer these matters in which we differ back to the *Qur'ân* and *Sunnah* – "Allah" and "His Messenger" respectively.

Allah makes the ruling clear regarding the one who does not accept the *Qur'ân* and *Sunnah* as the decisive factor, for he says: "If you differ in anything among yourselves, refer it to Allah and His Messenger, if you believe in Allah and the Last Day" [*Sûrah al-Nisâ'*: 59] Referring matters of dispute back to the *Qur'ân* and *Sunnah* is what the believers do. As for unbelievers, they will choose whatever they like.

In other places in the *Qur'ân*, Allah negates the belief of those who do not accept the *Qur'ân* and *Sunnah* as their criteria. He says:

"Have you not turned your attention to those who declare that they believe in the revelations that come to you and to those before you, but who wish to resort to false judges in their disputes though they were ordered to reject them?" [*Sûrah al-Nisâ'*: 60]

and:

"They say: 'We believe in Allah and His Messenger and we obey.' Yet even after that, some of them turn away. They are not really believers. When they are summoned to Allah and His Messenger so that he may judge between them, some of them decline to

come. But if the right is on their side, they come to him with all submission." [*Sûrah al-Nûr*: 47-49]

If they find that one of the laws of Islam conforms to their personal interests, they take to it wholeheartedly. If, however, the law does not suit them, they reject it, saying: "There is disagreement among scholars on this matter." They accuse those who dare to object of being severe and overly strict.

We do not seek to veil the fact that scholars disagree, nor do we dismiss any scholar's view in particular. What we do find objectionable, however, is the outright dismissal of the basis upon which such matters are to be decided. This basis is clearly stated by Allah when he says: "If you differ in anything among yourselves, refer it to Allah and His Messenger."

Islam does not permit us to decide on these matters according to our whims and inclinations. Quite the contrary, Islam seeks to take people away from their personal desires and bring them in accord with Allah's laws. Allah says: "And we put you on a straight way of religion, so follow it and do not follow the desires of those who know not." [*Sûrah al-Jâthiyah*: 18]

Likewise, Allah says: "And judge between them by what Allah reveals and do not follow their vain desires." [*Sûrah al-Mâ'idah*: 49] Therefore, what Allah reveals is one thing and what their vain desires call towards is another. We are required to govern by what Allah has revealed, even if it means setting aside our personal interests.

A person, when he petitions a scholar for an answer regarding a particular issue, is already acutely aware of his own personal inclinations and desires, so we can rest assured that he is not inquiring about these. In fact, he only goes to the scholar to ask about the ruling of his Lord. He is no more interested in that scholar's personal predilections than he is concerned about his own. Therefore, it is wrong for a *muftî* to answer him that there are two opinions on the matter and that he should pick whichever one suits him. By doing this, the *muftî* is actually referring the matter back to the questioner's fancy. This is wrong, because the questioner came to him seeking the ruling of Allah and His Messenger (peace be upon him).

There is a very dangerous tendency that comes as an outgrowth of this idea. This danger becomes clear when we look at the stages through which this way of thinking takes its adherents.

The first stage is for people to take the existence of disagreement on a matter as a way of freeing themselves from the fetters of Islamic law. Whenever you tell them something, they merely have to say: "The scholars are in disagreement on this matter." In this way they feel themselves free from accountability. In order to establish the existence of disagreement on a given issue, they will sometimes search far and wide to unearth the most unusual and untenable opinions that have ever been held by scholars. If you were to

refer back to the older books of Islamic law, you would often find that these opinions have long been decisively refuted and rejected by the scholarly community.

If we were to mention some of the strange opinions that have at one time or another been held by some jurists, we would shock our readers out of their senses. For example, I once read that one of the early jurists claimed that a person who is heavily in debt to another and unable to make payment can hand himself over in slavery to his debtor in lieu of his debt! Now, would any one of us want to advance this opinion? Can such an opinion ever be supported by the *Qur'ân* and *Sunnah*? In fact, it is diametrically opposed to the fundamentals of Islamic Law and to the established consensus of the jurists. Yet, someone in history once held this opinion, or at least this opinion has been attributed to someone.

So, if we were to go ahead and accept every strange and unsubstantiated view ever held by someone, we would get nowhere. We would dismantle Islamic law completely before we ran out of cases of disagreement.

This, though, is only the first stage. At this stage, they still say that whatever is a matter of consensus among all the scholars is binding. Only in matters where disagreement exists do they allow people to choose what they like. When they take this line of thinking to its ultimate conclusion, they arrive at the second stage.

At this stage, these people say that the principle of juristic consensus is itself a matter of dispute. These same people, who just yesterday used to say that they accept nothing but what is established by juristic consensus, today say that they need not bother with consensus either, since there have been some scholars who did not accept it. They might mention the scholars of the Zâhirî school of thought, who only accepted a very narrow definition of consensus, or some later scholars of jurisprudence who rejected the principle of juristic consensus outright.

If you then were to ask them: "Aren't you the ones who used to always refer us back to juristic consensus?" they will reply: "Yes, but the principle of consensus is itself in dispute, so we are not bound by it. We do not have to take even those opinions as our own. We can, in fact, have our own opinions on these matters as well."

It is very easy to conceive of people arriving at this stage of thinking, especially since few people make the distinction between the scholars of the past and contemporary scholars in matters of consensus. If a modern scholar says something that goes against the consensus of the scholars of the past, they see his opinion as proof that no consensus exists in the matter. Some of them advance for their arguments the opinions of contemporary figures like Muhammad Rashîd Ridâ or Muhammad Shaltût.

No doubt our present age has produced its share of erudite scholars who are of the highest caliber. Many of them, like Muhammad Rashîd Ridâ, offer us some very astute opinions. At the same time, they hold other opinions that are unacceptable. The purpose of saying this is not to pass judgment over any of these scholars. The point I am trying to make is

that some people do not make the distinction between the earlier scholars among whom consensus was reached and a later scholar who comes along and violates that consensus without realizing it.

A good example of this can be found in the book *Fath al-Mun`im*, which discusses issues found in *Sahîh Muslim*. When the discussion of shaving the beard comes up – and by no means is the issue of shaving the topic of our discussion – it says:

> Since shaving the beard has now become the common practice in Eastern countries, so much so that a good number of religious people have begun to follow the custom of the general public from fear of public ridicule, I decided to undertake extensive research to see if I could find any precedent for the permissibility of shaving, so that some of these learned personages might have an option in a matter which is unlawful by general agreement.

Look at the inconsistency here. He states clearly that shaving the beard is "unlawful by general agreement" but still goes on to say: "I decided to undertake extensive research to see if I could find any precedent for the permissibility of shaving" so he could give those poor wretches who feel ashamed in front of the general public a justification for shaving.

Therefore, if we accept that we should neither discuss nor reproach anybody in matters of disagreement, then we will invariably arrive at the principle of consensus itself, since it is also a matter wherein there is disagreement. This leaves nothing that cannot be overturned save fundamental issues of belief. Actually, not even these issues of belief are safe, since people can drag in divergent views from various misguided sects, like the *Murji`ah*, *Jahmiyyah*, *Qadriyyah*, *Khawârij*, *Mu`tazilah*, and others.

From here, the religion becomes a very chaotic and unruly entity. It becomes impossible to say anything conclusive about it. Nothing remains of it except the dubious notion that some people call the "spirit of the religion". I implore them to tell me what this "spirit of the religion" is. Where did they chance to find it? Would that it were scholars who spoke on these matters – for it would be impossible for scholars to talk such rubbish – then the problem would be trivial. But the situation is, indeed, how a poet once described:

If only I were put to the test by a Hashemite.
From the tribe of `Abd al-Madân his uncles be;

What they threw at me would've been ever so slight,
But look at those who have tried me, just come and see!

We should take a look at the state of these people. Some of them have lost any last vestige of logic and objectivity, not to mention shame. If someone ventures to say to them: "My opinion about the matter is that it is unlawful" they have a habit of replying with: "By God! He is accusing the people of unbelief! He is casting them out of Islam!" Now where in the statement that something is unlawful is there any implication of unbelief?

A person could deem something unlawful while maintaining that another person who engages in it is not even a sinner, let alone an unbeliever, because that person may have a different view on the matter. He may see it as permissible based on valid evidence that he finds convincing. For that reason he is not a sinner. So how do these people come off saying that a person who declares something unlawful is calling other people unbelievers? Where is the objective discourse? Where is the argumentation in the best of manners? Where is the logic in all of this? Where is the atmosphere of free enquiry that they are so fond of mentioning?

If you refer them to the words of Allah and his Messenger (peace be upon him), they often say something like: "Are you more knowledgeable than so-and-so to have the presumption of disagreeing with him?" Then if you refer to the words of people of knowledge, they return with: "You are a stagnant, blind follower, adhering to those opinions unyieldingly and defending them for their own sake!"

Should we not be taken aback by such contradictory arguments? They go running after the opinions of this one and that on the presumption of according respect to the scholars, calling those who disagree recalcitrant and irreverent. Then they turn around and reject the opinions of the scholars by extolling the virtues of free thought and by purportedly opening the doors to *ijtihâd*. Sometimes they call towards free enquiry and at other times they cut off their opponents' voices and try to keep others from hearing what they have to say. How long can this unruly conduct be allowed to go on?

5. Seeking out lenient rulings:

Another way people speak on Allah's behalf without knowledge is by actively seeking out lenient rulings.

I should start by making clear what I do not mean by this. I am not talking here about the concessions that exist in Islamic law, like the permission given to a traveler to break his fast and combine his prayers and the permission given to a sick person to break his fast. Allah loves his worshippers to take these concessions. The Prophet (peace be upon him) said: "Allah loves that you put His concessions into practice as much as He loves that you put His commandments into practice."[17]

Allah says: "He has chosen you and has imposed no difficulties on you in religion." [*Sûrah al-Hajj*: 78]

Allah also says: "Allah wants ease for you. He does not want to put you into difficulty." [*Sûrah al-Baqarah*: 185]

The Prophet (peace be upon him) said: "Make things easy. Do not make them difficult."[18]

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[17] *Musnad Ahmad* (5836, 5839).
[18] *Sahîh al-Bukhârî* (69). *Sahîh Muslim* (1734).

The Prophet (peace be upon him) also said: "I have been sent with the true and lenient religion."[19]

The religion of Islam possesses the richness and flexibility to make it suitable for every time and place. This does not mean that Islam yields to the dictates of circumstance, but it does mean that, just as it is, it can be applied under all conditions.

The specialists in Islamic Law are well aware of the tolerance and ease that are inherent in the religion. Severity is not a sign of knowledge. A true scholar is always closer to easiness than others are. The eminent jurist Sufyân al-Thawrî said: "Knowledge, to us, is leniency coming from a reliable source. Anyone can be severe."

Though the religion is lenient and easy for the people, this does not mean that concessions should be taken from anyone. They must be taken from a reliable source, from someone who knows where leniency is needed and where severity is needed. Everyone can be severe, but it is not correct to forbid everything new that comes along. A scholar has to be able to look at things with discernment and know, on the basis of sound and fixed principles, what to accept and what to reject. May we praise Allah that there are a number of scholars around the world today who are quite capable of doing this.

It is not my intention to deal in detail with the topic of ease and concessions in Islamic Law. I have discussed this topic in other places. What I wish to do here is merely emphasize the point that Islam is an easy religion.

Among the ways Islam makes things easy for the worshippers is that Allah, when he closes one door by forbidding something, opens another by showing its permissible alternative. Allah's Messenger, when asked about a matter, would often clarify both what is forbidden and what is allowed.

Abû Sa`îd al-Khudrî relates to us that Allah's Messenger (peace be upon him) appointed a man to govern Khaybar. That man came to him with a very high-quality type of date. Allah's Messenger asked: "Are all the dates of Khaybar like this?"

He replied: "By Allah, no. O Messenger of Allah, we trade two quantities of regular dates for one quantity of these or three quantities of regular dates for two quantities of these."

Allah's Messenger said to him: "Do not do this. Sell your dates for money, and then use that money to purchase the high-quality dates."[20]

We can see here that when the Prophet (peace be upon him) prohibited bartering dates for dates, he provided a lawful alternative.

[19] *Musnad Ahmad* (24334, 25341). There is weakness in its chain of transmission, but it is strengthened by other narrations that support it and bring it to a grade of good (*hasan*).
[20] *Sahîh al-Bukhârî* (2202, 2302, 2303,,4244, 4245). *Sahîh Muslim* (1593).

We are in dire need of scholars who specialize in economics, administration, sociology, psychology, politics, and every other field of inquiry who are also conversant with Islamic Law. We need these people so we can approach every issue that confronts us from a proper Islamic perspective. Alternatively, scholars of Islamic Law must work in conjunction with other specialists so they can have a proper understanding of the issues that they must decide upon.

Fortunately, there are academic bodies that work in this way to some extent, like the Council of Leading Islamic Scholars, the Islamic Law Academy, and a number of other organizations throughout the world. This is a beginning, but more is needed. We hope that this trend will develop until all the problems facing the Muslims can be solved in the light of the *Qur'ân* and *Sunnah*.

One of the ways we can avoid harshness is not to compel people to follow any one opinion or school of law as long as another has valid evidence to back it up. At the same time, we must never say to them: "You may take the opinion of one school of law over another simply because it is easier." We cannot prefer one opinion and abandon another in complete disregard of the Islamic legal considerations used to arrive at those opinions.

On one occasion, I encountered some people who had established an endowment. The endowment was exclusively in the form of currency. I asked them: "On what basis do you make an endowment of money?"

They replied: "We researched the topic and found an opinion of Imam Ahmad that it is permissible to make an endowment of money, so we did so."

At this point, they need to be asked: Did they do research into the opinions of others as well after finding that opinion of Imam Ahmad? Did they look into the evidence backing up the various opinions so they could weigh their merits and demerits? If they did so, then they did nothing wrong. On the other hand, if they merely acted upon Imam Ahmad's statement because he came with an opinion that pleased them, then their approach was wrong.

We would like to reemphasize that the tolerance of Islamic Law is great and the concessions in it are many. One scholar might have some deficiencies in his understanding for which other scholars compensate. The scholars, in this way, fill in the gaps in each other's knowledge and together present a complete picture of Islamic Law.

However, those people who merely chase after the easy opinions of the scholars are almost falling into a type of heresy. In each school of law we find some easy matters. One school of law will deem a matter permissible while another will consider it unlawful. The same school of law that considers a given matter permissible will declare other things as forbidden which the other schools of law deems permissible. Some people approach these schools of law, taking from each of them the concessions and easy opinions while abandoning the difficult ones.

This is very serious. These people are just collecting opinions together without any guiding principle aside from seeking out what is most pleasing or least difficult. They seek out the opinions that conform to their laziness or their lack of desire to submit to the Law of Allah. Some of these people who have no fear of Allah go so far as to compile books that collect together the easy opinions of various scholars and then distribute these books to the general public in an effort to make the masses as apathetic as they are.

There is a very good story that relates to this topic told al-Bayhaqî. It goes as follows:

The judge Ismâ`îl entered upon the Abbasid Caliph al-Mu`tadid, who presented him with a book to look over. The book was a compilation of easy rulings and concessions that various scholars had arrived at in error along with the evidence those scholars used to support their claims. Upon looking over the book, Ismâ'îl said to the Caliph: "The author of this book is a heretic."

The Caliph asked why. So the judge told him: "The statements that are mentioned in the book are not represented properly. Those who gave the ruling that temporary marriage is lawful did not consider singing or certain intoxicants lawful. There is no scholar who has never made a mistake. Whoever collects these mistakes together and acts upon them loses his religion."

At this point the Caliph ordered the book to be burnt.[21]

A friend of mine once said to me: "How desperately we need al-Mu`tadid's fire to dispose of a number of books like this one today!" I do not think that this is necessary. The Muslim's have enough good sense and understanding to see what is going on. Their good judgment will be the fire that will burn through this falsehood until only the truth, by Allah's grace, will remain.

People of knowledge throughout history have warned against chasing after easy rulings.

Sulaymân al-Taymî says: "If you were to act upon the concessions of every scholar, you will have collected within yourself every possible evil."

Ibn `Abd al-Barr writes on this topic: "I know of no disagreement among the people of knowledge that this type of conduct is forbidden."[22]

Ibn Hazm, al-Bâjî, Ibn al-Salâh[23], and other leading jurists have stated the same thing. They inform us that there is absolute consensus among the scholars that it is not permissible for a Muslim to make it his habit to chase after easy opinions and concessions. We have here the testimony of four of the leading jurists – Ibn `Abd al-Barr, Ibn Hazm, al-Bâjî, and Ibn al-Salâh – that chasing after concessions is forbidden according to the consensus of the scholars, lest anyone try to say otherwise.

[21] Al-Dhahabî, *Siyar A`lâm al-Nubalâ'* (13/465).
[22] Al-Shâtibî, *al-Muwâfaqât* (4/134).
[23] Al-Shâtibî, *al-Muwâfaqât* (4/147).

Al-Awzâ`î, the leading jurist of Syria, says: "He who acts upon the strange opinions of different scholars has left Islam."[24] According to al-`Awzâ`î, that person has "left Islam", even though he has not departed from the statements of the people of knowledge. The reason for this is that there will always be mistakes made by scholars. The most erudite scholar will have at least one serious mistake to his credit. If someone seizes upon that mistake and the mistakes made by others, and then passes them off as the opinions of people of knowledge, then what way is he actually following?

Al-Awzâ`î also says: "We avoid five opinions that come from the scholars of Iraq. We also avoid five opinions that come from the scholars of Mecca." He then goes on to mention the ten ruling.

Ahmad b. Hanbal says: "If a man were to act upon the opinion of the scholars of Kûfah regarding intoxicating beverages and the opinion of the people of Madinah regarding singing, and the opinion of the people of Mecca regarding temporary marriage, he would be a brazen sinner." Ahmad sees this man as a sinner, even though he never went outside the opinions of the scholars.

Al-Awzâ`î went farther, declaring a person who habitually seeks out such opinions an unbeliever.

Ibn Hazm says: "There are people who see the religion as so trivial and who have so little fear of Allah that they seek out the opinions that conform to their vain desires. They look for what is easy from each scholar, without even imploring into what Allah and his Messenger have said."

Chasing after concessions has evil consequences, the most serious of which are the two that follow:

1. It causes people to disdain and think little of the religion. The religion becomes as al-Shâtibî describes it: "…a liquid flowing without a course." There will remain of the religion nothing that one can refer back to with any confidence and say: "this is it".

2. It will lead people to eschew the *Qur'ân* and *Sunnah* as sources of Islamic Law. We must require people to return to the *Qur'ân* and *Sunnah*, not to the opinions of men. This is something that every Muslim must admit, for Allah says: "But no, by your Lord, they can have no faith until they make you (O Muhammad) the judge in all disputes between them and find in their souls no resistance against your decisions, but accept them with full conviction." [*Sûrah al-Nisâ'*: 65]

6. Going along with circumstances:

Another way people speak on behalf of Allah without knowledge is by going along with the circumstances, customs, and cultural norms of their society and distorting the

[24] Al-Shâtibî, *al-Muwâfaqât* (4/144).

meanings of the sacred texts until they are made to conform to those norms. It does not matter how much at variance these practices are with Islamic Law. People are easily pressured by circumstances. People naturally like to be in agreement with those around them and in harmony with their norms. They hate to confront their peers with what they dislike. Therefore, when something becomes widespread, commonplace, and accepted by the people, it becomes difficult for someone to say to them: "This is forbidden by Allah."

To avoid this uncomfortable stance, a person often goes searching for any justification to declare that forbidden thing permissible. He may even convince himself that he is doing this to make things easy on the people.

There can be no doubt that circumstances exert a powerful influence over people. Many feel helpless to change or improve the situation to make it more pleasing to Allah. Because of this feeling of helplessness, some people think that yielding to circumstances is a matter of necessity.

We must ask: what is the definition of "necessity" in Islamic Law? No doubt, we recognize how necessity affects Islamic rulings, but first a case of necessity must be properly established. Not necessarily everything that a person feels he needs is actually a necessity. In Islamic Law, necessity has its own defining principles and conditions that must be taken into consideration. Moreover, once a case of necessity is established, then it must be handled within its proper scope. A ruling based on necessity must not be extended beyond the people in need, and it definitely must not be made universally applicable

People can fall into sin, but even so, they should seek forgiveness. They should not look for a way to declare their sinful conduct lawful. There is a marked difference between someone who sins and asks for Allah's forgiveness – and who might very well receive it – and someone who sins and then delves into the books looking for a way to justify committing it. Is this the way for a person to conduct himself with Allah? Is Allah going to ask him on the Day of Resurrection about what he found in a book and what he read some scholar say, or is Allah going to ask him about what was clearly and unambiguously stated in the *Qur'ân* and *Sunnah*?

Allah says: "On that day, He will call them and say: 'What was the answer that you gave to the Messengers?'" [*Sûrah al-Qasas*: 65] The fact that Allah is going to ask us: "What was the answer that you gave to the Messengers?" prevents us from looking to make our sins permissible when we are unable to avoid falling into sin. Likewise, if we as a society fail to do away with some widespread sinful practices, this does not give us any justification to look for some way to declare it permissible. What we must do is admit that it is forbidden, recognize that it is going on, and pray to Allah to help us do away with it. Then we should look for ways and means to rid our society of that sin. The least we can do, if all else fails, is pray that the next generation will come along and find the wherewithal to remove the blight from our society. We should never, in our incapacity to remove a sin from our people, look for a way to declare it lawful.

Let us consider, for instance, the Jews in Israel. It may be true, due to a number of factors, that the Muslims today are incapable of removing them from Muslim land. So we say that generations will come after us who will remove the Jews from the land they have stolen, just as Allah's Messenger (peace be upon him) has foretold us they would. On the other hand, it would be a crime for us to concur with what the Jews are doing and parcel out to them what they want of Palestine because we are incapable of doing anything about it. If we voiced our agreement to what they are doing, we would be making the Jewish occupation of our land as if it were Islamically legitimate. This would be the greatest self-deception.

What we must do is admit our inability and face the fact that Israel exists, but not declare that this situation is right. We must recognize that what Israel is doing is the same as a burglar who takes over somebody's house when the owner can do nothing about it. What does the owner of the house say? He says to himself that one day his sons will return and take the house back. He does not tell the thieves: "The house is yours, because you are a strong thief who has the support of the East or the West."

Some people have misunderstood the idea of recognizing one's circumstances as an excuse to change the laws of Islam. They misinterpret the words of Ibn al-Qayyim to this effect. Yes, Ibn al-Qayyim does discuss the fact that Islamic rulings change, but he it not talking about it the way they understand it. Their misunderstanding of his words is a classic example of what happens when people who are not versed in Islamic Law and the terminology of Islamic Law start delving into it.

Ibn al-Qayyim writes: "Islamic rulings change with changing customs, circumstances, and with time and location, and in consideration of the intention of the one engaged in the matter."[25]

What he says, however, is illustrated by examples. A *muftî* may give one ruling in one country and a different ruling in another on the basis of the different customary practices in the two countries. How is that? For example, take the currencies known as the *dinâr* (a minted gold coin) and the *dirham* (a minted silver coin). In one country a *dinâr* is equal to eight *dirhams*, in another it is equal to ten *dirhams*, while in a third it is equal to twelve *dirhams*. If a man was under obligation to pay twenty *dinârs* but only *dirhams* were available, then how would the *muftî* have to rule? If he was in the country where one *dinâr* was equal to ten *dirhams*, he would obviously have to rule that the man must pay out 200 *dirhams*. However, if the same case were brought to him in the country where one *dinâr* equals twelve *dirhams*, the *muftî* would rule that the man must pay out 240 *dirhams*. The ruling had to change in consideration of the varying currency standards in the different countries.

Take another example: In Islamic Law, divorce occurs with a declaration from the husband. In the custom of some countries, if a husband wants to divorce his wife, he says to her: "You are excused." In the land of Najd, however, such a practice is unknown. In Najd in the olden days, if a man intended to divorce his wife, he would say to her: "I

[25] Ibn al-Qayyim, *I`lâm al-Muwaqqi`în `an Rabb al-`Âlamîn* (3/3).

release you." Keeping this in mind, imagine if a woman in Najd one day bumps into her husband accidentally and begs his pardon, so he turns to her, smiles, and says: "You are excused" Would anybody in his right mind declare the two divorced? Of course not. It would be just as ludicrous if, outside of Najd, a man playfully grabs his wife by the hand and refuses to let go, so she said to him: "Release me" and he obliges, and someone declares it a divorce! This is the type of ruling that has to change in consideration of the customs of the land. Also, this is a case where the person's intention has a decisive affect on the ruling. There are many such examples when it comes to issues of divorce, manumission, and other similar matters.

Let us consider a final example. In some Arab countries, the word "*halîb*" is used for both milk and sour milk. If someone in that country declares: "I swear by Allah, I will not drink *halîb*", then he will have to abstain from both milk and sour milk in order to keep his oath. In other countries where milk is called "*halîb*" and sour milk is called "*laban*", then a person making the same oath would still be able to drink sour milk.

Such rulings vary in consideration of both the customs of people, their manner of speaking, and their intentions. The great jurist Abû Hanîfah gave the ruling that a person could purchase a house even if he saw only one room of that house. Why? Because back then in `Iraq, houses were built with identical rooms, so seeing one room was enough. His students did not concur with this ruling and said that seeing one room was not sufficient. Why? Because the customs had changed and people started building houses in a different style with rooms of varying sizes and shapes. In actuality, did the laws of Islam change? No. The ruling, however, changed due to changing circumstances. This is what Ibn al-Qayyim means when he writes: "Islamic rulings change with changing customs…"

There is another topic that often causes confusion for novices in Islamic Law. The issue is what happens when a scholar changes his opinion based on *ijtihâd*. A scholar could offer a ruling today that something is – say – forbidden. Then, after engaging in further research and study, he changes his opinion and retract his first ruling after it becomes clear to him that what he thought was forbidden is actually permissible in Islamic Law. Some people think that this is a case of a ruling changing with changing circumstances. This is wrong, though some people who are not scholars have written about this as if the two were the same. When a scholar changes his opinion based on *ijtihâd*, we merely have a case of a person changing his mind after engaging in *ijtihâd* on a matter on more than one occasion. Something may become clear to a scholar on one occasion that he had not been aware of on another. He may see something as permissible today that he considered impermissible before and vice versa. It is his responsibility, whenever he comes to a new conclusion on a matter, to present his ruling to the people with the evidence that he relied upon to reach that ruling.

The earliest of scholars, and even the Companions for that matter, often changed the rulings that they gave on a question and retracted their older views. On some occasions, a scholar would not only change his view on a matter, but would send criers to the marketplaces to make an announcement of the change. This shows that when a scholar

changes his mind, it is quite different than when a ruling changes on account of changing circumstances.

It is quite startling that some people get these two matters confused with each other, so much so that we find one of them saying: “An example of an Islamic ruling changing is that in the past some people thought that a wristwatch was a form of magic and today nobody thinks that.” This is more like a joke than the serious academic discourse that it purports to be. First of all, has there ever been a scholar who passed a ruling that a wristwatch was magic? The possibility that some members of the general public thought wristwatches were magic when they first encountered them and that a person of knowledge responded to them with the fact that such devices are the result of craftsmanship, not magic, is quite something else. A person who claims that Islamic scholars ever declared wristwatches to be a form of magic is just poking fun at the scholars and deriding them.

We find someone else saying: “An example of an Islamic ruling changing is the issue of slavery. People used to have slaves in the past, and then the scholars declared slavery unlawful.” Now this is utter nonsense. None of the scholars ever declared slavery unlawful. The matter of enslaving someone is an Islamic ruling that can be found in the *Qur’ân* and *Sunnah*. It is not a historical phenomenon. It is, however, a matter that has specific causes and conditions.

In Islam, a person cannot just be captured and enslaved. Slavery comes as a result of war and is one way that Muslims can deal with war captives. This is how the issue of slavery appears in Islamic Law. The lawfulness of slavery in this framework has never been – and can never be – disputed or revoked. The fact that it does not exist today for various reasons, often because the slave owners freed their slaves or the state secured their freedom, does not mean that the ruling on the matter has changed. The verses of the *Qur’ân* on the matter are clear and binding and have never been abrogated. No one is capable of expunging them from the text of the *Qur’ân*.

From all of this we can conclude that the pressure of circumstances is the most compelling reason why people try to distort the laws of Islam and make them conform to public taste.

The fact is that the religion is intrinsically easy. Allah’s Messenger (peace be upon him) came with the true and lenient religion. He came to make things easy and not to make things difficult. Allah has placed no difficulty in the religion. The jurists have working principles like: “If matters become constricted, the laws become more flexible” and “Difficult circumstances require leniency.” It would take a lengthy discussion to deal with these principles in full. What it is important to emphasize here, however, is that these principles do not imply that we can use circumstances and contingencies to free ourselves from the laws of Islam.

The only rulings that change with the customs of the people are those rulings that are contingent on their customs. As for the rulings brought to us by Allah and His Messenger (peace be upon him), they cannot be changed under any circumstances.

CONCLUSION

Religion is not public domain for everyone to do with as they please. It is something for which Allah has referred us to the people of knowledge. They are the people who know the *Qur'ân* and *Sunnah*. These are the people who prevent the religion from being corrupted by extremists and deviants.

The Islamic awakening that is going on right now will, with Allah's grace, show its fruits in the future. It will provide us with righteous scholars who put their knowledge into practice. They will be scholars capable of carrying out the duties of conveying knowledge and providing rulings for the issues that face us. They will be able to oppose the childish novices who follow their fancies and are not guided by knowledge.

I ask Allah to bless the Muslims with scholars capable of performing *ijtihâd* who will carry forward the standard of Islam. I seek Allah's forgiveness for myself and for you, my dear readers. May the peace and blessings of Allah be upon His Messenger, our Prophet Muhammad and upon all of his family and Companions.